

IN RE: PETITION FOR ZONING VARIANCE
SE/Corner Summerson and
Wickfield Roads
(2715 Summerson Road)
3rd Election District
2nd Councilmanic District
Katherine Mary High, et al
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 89-185-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit an existing fence 6 feet high and 12 feet long to be located in the rear yard adjoining a front/side yard, with a setback of 2 feet in lieu of the required 30 feet, all as more particularly described in Petitioner's Exhibit 1.

The Petitioners, Katherine Mary High and Rhonda Sue Fishel, appeared and testified. There were no Protestants.

Testimony indicated that the subject property, known as 2715 Summerson Road, is zoned D.R. 5.5 and is currently improved with a single family dwelling. Petitioners testified they purchased the subject property in July 1988. Shortly thereafter, they contracted with a fence company to install a fence in the rear yard to permit them to let their two dogs outside to roam the property without trespassing onto other properties. Testimony indicated that prior to the fencing, the children in the neighborhood played with the dogs and, from time to time, would even tease the dogs. Petitioners felt in order to protect both the children and their dogs it would be safest to fence the rear yard. The height of the fence was chosen to prevent the dogs from being able to jump over the fence. Petitioners indicated they were not advised by the fence company that a variance would be needed due to the height and location of the fence, which adjoins a front and side yard of their neighbor's property. Upon

notification that the subject fence was in violation of the zoning regulations the instant Petition was filed.

Petitioners contacted the affected neighbors whose property the fence abuts to discuss their desires. The neighbors advised Petitioners of their support for the fence. As evidence of the adjoining neighbors' consent to their request, Petitioners introduced as Petitioner's Exhibit 2 a signed notarized statement of approval by the affected neighbor. Testimony further indicated that strict compliance with the regulations would result in no fence being permitted in the rear yard.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 30th day of November, 1988 that the Petition for Zoning Variance to permit an existing fence 6 feet high and 12 feet long to be located in the rear yard adjoining a front/side yard, with a setback of 2 feet in lieu of the required 30 feet, all as more particularly described in Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions, which are conditions precedent to the relief granted:

- 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

Ann M. Nastarowicz
ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Townson, Maryland 21204
XXXXXX 867-3353

J. Robert Haines
Zoning Commissioner

November 30, 1988



Dennis F. Rasmussen
County Executive

Ms. Katherine Mary High
Dr. Rhonda Sue Fishel
2715 Summerson Road
Baltimore, Maryland 21209

RE: PETITION FOR ZONING VARIANCE
SE/Corner Summerson and Wickfield Roads
(2715 Summerson Road)
3rd Election District - 2nd Councilmanic District
Katherine Mary High, et al - Petitioners
Case No. 89-185-A

Dear Ms. High and Dr. Fishel:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 494-3391.

Very truly yours,

Ann M. Nastarowicz
ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

cc: Mr. Irvin Kaplan
6607 Wickfield Road, Baltimore, Md. 21209

People's Counsel

File

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 427.81. To allow a fence with a height of 6 ft. in the rear yard adjoining a front/side yard, a length of 12 ft. with a 2 ft. setback in lieu of the required 30 ft.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County for the following reasons: (Indicate hardship or practical difficulty)

1. We own two large dogs that could jump over a 3 foot fence.
2. The fence prevents the neighborhood children from coming into the yard and bothering the dogs.
3. The privacy fence will increase property values.
4. We are considering installing a pool in the future.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:
(Type or Print Name)
Signature
Address
City and State
Attorney for Petitioner:
(Type or Print Name)
Signature
Address
City and State
Attorney's Telephone No.:
Address

Legal Owner(s):
Katherine Mary High
(Type or Print Name)
Signature
Rhonda Sue Fishel
(Type or Print Name)
Signature
2715 Summerson Rd. 653-9414
Address Phone No.
City and State
Name, address and phone number of legal owner, contract purchaser or representative to be contacted
2715 Summerson Rd. 653-9414
Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 1st day of December, 1988, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 1st day of December, 1988, at 11 o'clock A.M.

J. Robert Haines
Zoning Commissioner of Baltimore County.

(over)

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 3rd Date of Posting: October 24, 1988
Posted for: Variance
Petitioner: Katherine Mary High, et al
Location of property: SE/Corner Summerson and Wickfield Roads
2715 Summerson Road
Location of Signs: In front of subject property at 2715 Summerson Road
Remarks:
Posted by: S.J. Grata
Signature
Date of return: October 28, 1988
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., October 28, 1988

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on October 27, 1988.

THE JEFFERSONIAN,

S. Zeke Olson
Publisher

PO 05227
Reg #20382
case 89-185-A
price \$41.25 J

CERTIFICATE OF PUBLICATION

Pikesville, Md., 10/26/88

THIS IS TO CERTIFY, that the annexed advertisement was published in the NORTHWEST STAR, a weekly newspaper published in Pikesville, Baltimore County, Maryland before the 27th day of October, 1988
the first publication appearing on the 26th day of Oct., 1988
the second publication appearing on the _____ day of _____, 19____
the third publication appearing on the _____ day of _____, 19____

THE NORTHWEST STAR

Manager

Cost of Advertisement \$22.40

RECEIVED
OCT 26 1988
ZONING OFFICE

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
454-3353

J. Robert Haines
Zoning Commissioner

October 7, 1980

NOTICE OF HEARING

Dennis F. Rasmussen
County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the Planning and Zoning Ordinance No. 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Varying Variance
CASE NUMBER 88-185-A
365 Saratoga and Wildfield Roads
(2715 Saratoga Road)
3rd Election District - 2nd Councilmand
Petitioners/obj: Katherine Mary Hays, et al
HEARING SCHEDULED THURSDAY, NOVEMBER 17, 1980 at 11:00 a.m.*

Variance to allow a fence with a height of 8 ft. in the rear yard adjoining a front/side yard, a length of 12 ft. with a 2 ft. setback in line of the rear yard 30 ft.

NOTES
IF PHASE II OF THE SHOWING SCHEDULED PLAN IS IN EFFECT IN BALTIMORE COUNTY BY 6:30 a.m. ON THE DATE OF THE ABOVE HEARING, SUCH HEARING WILL BE POSTPONED AND TENTATIVELY RESCHEDULED FOR THURSDAY, DECEMBER 22, 1980. PLEASE TELEPHONE DUCRET CLERK AT 666-3330 TO CONFIRM DATE.

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

cc: Katherine Mary Hays
Theresa Sue Flannel
File

[illegible]

VICINITY MAP

GREEN SPRING AVE.

SMITH AVE.

WICK FIELD RD.


SUBJECT PROPERTY

KATHERINE HIGH
 MONA FISHEL
 2715 SUMMERSON RD.

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4500

Paul H. Reinecke
Chief
J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

September 12, 1988



Dennis F. Karamiouni
County Executive

Re: Property Owner: Katherine Mary High/Rhonda Sue fishel

Location: SE/C Summerson & Wickfield Roads
2715 Summerson Road

Item No.: 92 Meeting Agenda: Meeting of 9/13/88

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "x" are applicable and remedial to be corrected or incorporated into the final plans for the property.

1. Fire hydrants for the referenced property are required and shall be located at intervals of _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
2. A second means of vehicle access is required for the site.
3. The vehicle dead end condition shown at _____
EXCEEDS the maximum allowed by the Fire Department.
4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.
6. Site plans are approved, as drawn.
7. The Fire Prevention Bureau has no comments at this time.

Noted and Approved: *John F. O'Neill*

REVISOR: *Bob Jones, 9-13-88*
Planning Group
Special Inspection Division

Fire Prevention Bureau

7/31

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

J. Robert Haines,
TO: Zoning Commissioner _____ Date: November 14, 1968

Pat Keller, Deputy Director
FROM: Office of Planning and Zoning *PK/sf*

Zoning Petition No. 89-185-A
SUBJECT: High/Fence

Any fencing placed along Wickfield Road should be setback 10 feet from the property line and landscaped along the street side. The landscape annual is attempting to address the visual problem of opaque fences located adjacent to roads.

PK/sf